



City Attorney's Office: 317 College St, Grand Prairie, TX 75050

April 30, 2019

The Attorney General of Texas
P.O. Box 12548
Austin, TX 78711-2548

Re: Open Records/Public Information Request for Opinion – (Ref. No: GPCA 19-0051)

Dear Sir or Madam:

On April 16, 2019, the City of Grand Prairie's Police Department received a written request for information from Malcom Chakery seeking reports and calls for service related to 365 Blueberry Lane during a specified time frame. A copy of the request is enclosed as Exhibit "A". The City has made a portion of the information available to the requestor, but believes the remaining information, enclosed as Exhibits "B" and "C", is excepted from disclosure under Texas Government Code §552.101 and §552.108. The City requests a ruling on the applicability of the above referenced provisions.

Government Code §552.101-Confidential By Law/Family Code §261.201 – Child Abuse

Government Code §552.101 excepts information from disclosure where the information is considered confidential by law, either constitutional, statutory, or by judicial decision. Family Code §261.201 excepts from disclosure;

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

See Tex. Fam. Code §261.201(a). Texas Family Code §261.201 further outlines certain individuals and circumstances in which records relating to child abuse can be released. These are generally limited to releasing records to those individuals who are representing or legally responsible for the child after determining the release will not put the child at risk.

The records enclosed as Exhibit "B" are records relating to a child abuse investigation. The investigating agency, the Grand Prairie Police Department, has not adopted any rules which would authorize the requestor to obtain the records. Based upon the information available to us, the requestor is not one of the individuals authorized under this section to receive the requested information, and releasing this information would not be consistent with the purpose of the Texas

Family Code. Therefore, the City is requesting a ruling confirming the City is prohibited from releasing the requested information.

Government Code §552.108 – Law Enforcement Records (Pending Matter)

Government Code §552.108 generally permits law enforcement agencies to withhold law enforcement records if the release of said records would interfere with the investigation, prosecution, or detection of crime. The records enclosed as Exhibit “B” are records of a law enforcement agency, the Grand Prairie Police Department, and relate to a matter which has not received final disposition in court. On numerous occasions the courts have reasoned that release of records related to a case which is still pending would presumptively interfere with the detection, investigation, and prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177, 184-85 (Tex. Civ. App.—Houston {14th Dist.} 1975, *writ ref’d n.r.e.*, 536 S.W.2d 599 (Tex. 1976) (per curium). As such, the City contends the enclosed records are excepted from disclosure under Government Code §552.108.

The City acknowledges that Section 552.108 does not allow basic information to be withheld. However, in this instance, said basic information must be withheld pursuant to Family Code §261.201 which deems the basic information at issue confidential.

Texas Government Code §552.101/Family Code §58.008 – Juvenile Suspect

Government Code §552.101 excepts information from disclosure where the information is considered confidential by law, either constitutional, statutory, or by judicial decision. Family Code §58.008 states that, “law enforcement records concerning a child and information concerning a child that are stored by electronic means or otherwise and from which a record could be generated may not be disclosed to the public. . .” Family Code §58.008(d) only permits inspection or copying by a juvenile justice agency, a criminal justice agency, the parent or guardian of the child, and the child.

The highlighted portion of the records enclosed as Exhibit “C”, are records related to a child as defined in Family Code §51.02. These records are subject to the confidentiality provision in Family Code §58.008. Based upon the information available to the City, the requestor is not one of the individuals or agencies referenced in Family Code §58.008(d). Therefore, the City is prohibited from releasing the information highlighted in Exhibit “C”.

Therefore, the City contends that Exhibit “B” and the highlighted portion of Exhibit “C” are excepted from disclosure under the above referenced provisions. Please don’t hesitate to contact me if you have any questions related to this request. Thank you for your attention to this matter.

Sincerely,



Tiffany Bull
Assistant City Attorney

Enclosures (3)

CC without enclosures: Requestor
PD Records